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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,153	08/21/2003	Jeong-Kyu Moon	678-1123	8920
66547 7590 01/06/2009 THE FARRELL LAW FIRM, P.C. 333 EARLE OVINGTON BOULEVARD SUITE 701 UNIONDALE, NY 11553				
EXAMINER				
DESIR, PIERRE LOUIS				
ART UNIT		PAPER NUMBER		
2617				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/646,153

Applicant(s)

MOON, JEONG-KYU

Examiner

PIERRE-LOUIS DESIR

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 4-10 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claims 4 and 8 are objected to because of the following informalities:
"attempting to" does not recite positively. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 4 and 8, the phrase "if" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

The claim is conditional, as indicated by the "if" clause. That means the call may or may not fail. If the call does not fail, the claim does not describe what takes place, thus becomes indefinite.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheeler et al. (Wheeler), U.S. Patent No. 6639973, in view of Moran, US 20020073142 A1.

Regarding claim 4, Wheeler discloses a method comprising the step of: attempting to establish a call connection with a counterpart mobile terminal using the mobile terminal (i.e., an originating party places a call through an originating party call control, through a network, through a terminating party call control to a terminating subscriber) (see abstract); and if the call connection between the mobile terminal and the counterpart mobile terminal is not established, transmits, using information entered during the attempt to establish the call connection, a predetermined message to the counterpart mobile terminal (i.e., in a situation where the terminating party computer is not available, the originating party through call treatment rule set send a pre-stored message is sent) (see fig. 5, col. 2, lines 40-55, and col. 4, lines 37-59).

More particularly, Wheeler discloses the following regarding the process of transmitting a pre-stored message to the other telephone:

The originating party must pre-configure options in the tables (128, 130, 132) of the call treatment rule set 33 within the call treatment rule set 33 for particular individuals or groups in the event that certain terminating parties are not reachable, block 120. The

originating party attempts a connection with Joe Smith via a mobile phone, 140. Joe Smith's line is busy, block 142. The originating subscriber then has pre-selected an instant message from a web menu, block 144. Call treatment rule set 33 selects Joe's mobile and the appropriate corresponding address, 122. The originating party has pre-selected for this situation a default message of "urgent, please call", block 146. Path 124 is selected and points to the service options 130. The service options 130 includes the instant message option and points to the list of instant messages, 132. The selected message is obtained from data storage. That is, the "urgent, please call" message is copied from the instant message options 132. Lastly, the message "urgent, please call" is sent to Joe's mobile phone via the IPv6 address and displayed on Joe's mobile phone, block 148 (see fig. 5, col. 4, lines 37-59)

From the above, one skilled in the art would unhesitatingly conceptualize that only one single dial procedure takes place for the user to transmit the pre-stored message to Joe's mobile phone.

Wheeler, however, does not specifically disclose that a one touch-button is pressed to transmit the message after failure.

However, Moran discloses a method wherein with the service of voice mail or answering devices most people have to repeat this information several times a day. A user is able to pre-record messages stored at a messaging server, such as voice, text or video messages, or multimedia messages comprising a combination of these. The user is then able to send one of the pre-recorded messages to the mail box of a destination party by providing information about the directory number of the destination party mail box

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and, for example, **pressing a particular function key on a telephone handset**. See **abstract**.

Also, it should be noted that the process of voicemail or voice message indicates the unavailability of the called party.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described by Moran with the teachings described by Wheeler to arrive at the claimed invention. A motivation for doing so would have been to facilitate the sending of messages to a destination party.

Regarding claim 8, Wheeler discloses a method comprising the step of: attempting to establish a call connection with a counterpart mobile terminal using the mobile terminal (i.e., an originating party places a call through an originating party call control, through a network, through a terminating party call control to a terminating subscriber) (see abstract); and if the call connection between the mobile terminal and the counterpart mobile terminal is not established, transmits, using information entered during the attempt to establish the call connection, a phone number of the mobile terminal (as known in the art, the identification of the calling party is sent to the called party when a call connection is made) and a predetermined message to the counterpart mobile terminal (i.e., in a situation where the terminating party computer is not available, the originating party through call treatment rule set send a pre-stored message is sent) (see col. 2, lines 40-55, and col. 4, lines 37-59).

More particularly, Wheeler discloses the following regarding the process of transmitting a pre-stored message to the other telephone:

The originating party must pre-configure options in the tables (128, 130, 132) of the call treatment rule set 33 within the call treatment rule set 33 for particular individuals or groups in the event that certain terminating parties are not reachable, block 120. The originating party attempts a connection with Joe Smith via a mobile phone, 140. Joe Smith's line is busy, block 142. The originating subscriber then has pre-selected an instant message from a web menu, block 144. Call treatment rule set 33 selects Joe's mobile and the appropriate corresponding address, 122. The originating party has pre-selected for this situation a default message of "urgent, please call", block 146. Path 124 is selected and points to the service options 130. The service options 130 includes the instant message option and points to the list of instant messages, 132. The selected message is obtained from data storage. That is, the "urgent, please call" message is copied from the instant message options 132. Lastly, the message "urgent, please call" is sent to Joe's mobile phone via the IPv6 address and displayed on Joe's mobile phone, block 148 (see fig. 5, col. 4, lines 37-59)

From the above, one skilled in the art would unhesitatingly conceptualize that only one single dial procedure takes place for the user to transmit the pre-stored message to Joe's mobile phone.

Wheeler, however, does not specifically disclose that a one touch-button is pressed to transmit the message after failure.

However, Moran discloses a method wherein with the service of voice mail or answering devices most people have to repeat this information several times a day. A user is able to pre-record messages stored at a messaging server, such as voice, text or video messages, or multimedia messages comprising a combination of these. The user is

then able to send one of the pre-recorded messages to the mail box of a destination party by providing information about the directory number of the destination party mail box and, for example, **pressing a particular function key on a telephone handset**. See **abstract**.

Also, it should be noted that the process of voicemail or voice message indicates the unavailability of the called party.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described by Moran with the teachings described by Wheeler to arrive at the claimed invention. A motivation for doing so would have been to facilitate the sending of messages to a destination party.

Regarding claim 5, Wheeler discloses a method (see claim 4 rejection) which includes the steps of: reading out a phone number of the mobile terminal (i.e., pre-stored phone number) and the predetermined message (i.e., pre-stored text message) from a memory of the mobile terminal (see col. 2, lines 45-55, also refer to col. 1, lines 3-10); and simultaneously transmitting the phone number of the mobile terminal and the predetermined message to the counterpart mobile terminal (i.e., in a situation where the terminating party computer is not available, the originating party through call treatment rule set send a pre-stored message is sent) (see col. 2, lines 40-55, and col. 4, lines 37-59).

Regarding claims 6 and 9, the combination of Wheeler and Moran discloses a method wherein a predetermined message to be sent to a destination address is a pre-recorded voice or text message (see abstract).

Regarding claim 7 and 10, Wheeler discloses a method (see claims 4 and 8 rejections) wherein the predetermined message is a previously entered text message (i.e., pre-stored text message) (see col. 4, lines 49-51).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PIERRE-LOUIS DESIR whose telephone number is (571)272-7799. The examiner can normally be reached on Monday-Friday 9:00AM- 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571)272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pierre-Louis Desir/
Examiner, Art Unit 2617

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/Meless N Zewdu/

Primary Examiner, Art Unit 2617